

Docket No.  
2005-88-C

South Carolina Applicant of  
nii communications, Ltd.  
d/b/a nii communications, L.P.

Approval of this application will promote the public interest by increasing the level of competition within South Carolina. This competition will mandate that all exchange telecommunications providers will operate more efficiently, enabling the consumer to benefit via reduced rates.

In support of this Application, NII respectfully states as follows:

**1. The name and address of the Applicant are:**

nii communications, LP  
1717 North Loop 1604 East  
Suite 300  
San Antonio, TX 78250  
Telephone: 210-403-9100  
Facsimile: 210-494-5449  
Toll Free: 800-932-3963  
Website: [www.niicomcommunications.com](http://www.niicomcommunications.com)

**2. All correspondence, notices, inquiries and other communications regarding this applicant should be sent to:**

Robert D. Coble  
Nexsen Pruet Adams Kleemeier  
1441 Main Street, Suite 1500  
Columbia, SC 29201  
Telephone: 803-253-8211  
Facsimile: 803-253-8277  
[Bcoble@nexsenpruet.com](mailto:Bcoble@nexsenpruet.com)

**With a copy to:**

Dana Hoyle, Manager of Regulatory Affairs  
nii communications, LP  
1717 North Loop 1604 East  
Suite 300  
San Antonio, TX 78250  
Telephone: 210-403-9100  
Facsimile: 210-494-5449  
[dana.hoyle@niicomcommunications.com](mailto:dana.hoyle@niicomcommunications.com)

### **3. Contact person regarding ongoing operations of the Company is:**

Dana Hoyle, Manager of Regulatory Affairs  
nii communications, LP  
1717 North Loop 1604 East  
Suite 300  
San Antonio, TX 78250  
Telephone: 210-403-9100  
Facsimile: 210-494-5449  
dana.hoyle@niicommunications.com

### **4. Description of Applicant**

nii communications, Ltd. ("NII") was established as a Limited Partnership in the State of Texas on June 26, 2000. NII was also granted authority to do business in South Carolina on February 23, 2005. The applicant's registered agent is CT Corporation System, 75 Beattie Place, Two Insignia Financial Plaza, Greenville, SC 29601. A copy of NII's articles of organization and South Carolina authority to operate are attached as Exhibit A.

### **5. Officers and Director and Legal Counsel**

See Exhibit B

### **6. Customer Service**

The Company understands the importance of effective customer service for local service customers. NII has made arrangements for its customers to call the company at its toll-free customer service number 1-800-847-2448. This number is answered twenty-four hours a day, seven days a week. In addition, customers may contact the company in writing at the headquarters address, as well as via email at [customerservice@niicommunications.com](mailto:customerservice@niicommunications.com). The toll free number will be printed on the customer's monthly billing statements.

## **7. Financial Ability**

NII has sufficient financial resources to operate in South Carolina. In support of the Company's financial ability to provide the proposed services, the Applicant offers its financial statements in Exhibit C. The Applicant, as a privately owned company, has no annual report and its financial information is confidential and proprietary. Accordingly, Exhibit C contains confidential proprietary and financial information not generally available to the public. Due to the highly competitive nature of the telecommunications marketplace, Applicant deems this material to be proprietary. Accordingly, Exhibit C has been marked as confidential and proprietary and is being submitted under seal to be maintained by the Commission and the Commission Staff on a confidential basis.

## **8. Managerial and Technical Ability**

Exhibit D contains a brief overview of the managerial experience of NII. The Company has the managerial experience in the telecommunications industry that will allow it to be a successful competitive local exchange and toll provider.

## **9. Proposed Service Territory**

NII proposes to offer facilities-based local exchange by leasing the unbundled network elements platform of BellSouth Telecommunications, Inc. ("BellSouth"). Local exchange service will be offered initially within the present operating areas of BellSouth. Exhibit E contains the proposed local exchange tariff of nii communications, LP. Exhibit F contains the Applicant's proposed interexchange tariff and proposed access services tariff.

## **10. Public Interest and Need**

Approval of this application and NII's proposed tariffs will serve the public interest and offer several benefits to consumers in South Carolina. First and foremost, NII will offer its Customers the ability to have seamless service for local services as well as intrastate, interstate and international toll services.

The granting of NII's application is consistent with S.C. Code Ann. §58-9-280(B), as amended by 1996 Act No. 354, and, in that regard NII makes the following representations to the Commission:

- A. Applicant possesses the technical, financial and managerial resources sufficient to provide the services requested;
- B. The provision of the local service by Applicant will not adversely impact the availability of affordable local exchange service;
- C. Applicant's local services will meet the service standards required by the Commission;
- D. Applicant, to the extent it is required to do so by the Commission, will participate in the support of universally available telephone service at affordable rates; and
- E. The provision of local service by Applicant will not adversely impact the public interest.

NII's entry into the local market will not disadvantage any telephone service providers. Incumbent LEC's are presently serving nearly all of the local exchange customers in South Carolina. The history of telecommunications competition has demonstrated that as new entrants improved the price performance of service, consumers benefited from a wider choice of service and options. The resulting reduced rates that competitive pressures brought to the market stimulated demand, resulting in growing revenues for both new entrants and established firms. NII expects this same phenomena to affect local service over time, thus creating a larger market for all carriers. Therefore, the approval of NII's application is clearly in the public interest.

## **11. Waivers and Regulatory Compliance**

The Applicant requests that the Commission grant it a waiver of those regulatory requirements inapplicable to competitive local service providers. Such rules are not appropriate for competitive providers and constitute an economic barrier to entry into the local exchange market.

- A. NII request that it be exempt from any financial recording rules or regulations that require a carrier to maintain its financial records in conformance with the Uniform System of Accounts (“USOA”). As a competitive provider, NII currently maintains its books and records in accordance with Generally Accepted Accounting Principles (“GAAP”). GAAP is used extensively by interexchange carriers. Since NII utilized GAAP, the Commission will have a reliable method by which to evaluate NII’s operations. Therefore, NII requests to be exempt from any and all USOA requirements of the Commission.
- B. In addition, NII requests a waiver of S.C. Reg. 103-610, and to be allowed to maintain its books and records at its headquarters location in San Antonio, Texas. In the event that the Commission finds it necessary to review NII’s books, this information will be provided upon request to the Commission or NII will bear the expense of travel for the Commission staff to examine the books and records located outside of South Carolina.
- C. NII requests that it not be required to publish local exchange directories. NII will make arrangements with the incumbent LEC whereby the names of NII’s Customers will be included in the directories published by the incumbent LECs. These directories will be distributed to NII’s Customers. This approach is entirely reasonable and will have a direct benefit to the customers of both NII and the incumbent LECs since customers will have to refer to only one directory for a universal listing of customer information. It would be an unnecessary burden on the Applicant to require that it publish and distribute its own directory to all customers located within each exchange area, particularly since nearly all of these customers will be customers of the incumbent LECs. It is more efficient for NII to simply include its Customer list in the existing directories of the incumbent LECs.

NII reserves the right to seek any regulatory waivers that may be required for NII to compete effectively within the States’ telecommunications market.

## **12. Flexible Regulation of Local Exchange Services**

In Docket Number 97-467-C, the Commission approved a rate structure that incorporated maximum rate levels with the flexibility for adjustment below the maximum rate levels. The Commission determined that local tariff filings would be presumed valid upon filing, subject to the Commission's right within thirty days to institute an investigation of a tariff filing and that any such tariff filings would be subject to the same monitoring process as similarly situated competitive local exchange carriers. NII submits that as a local exchange competitor it should be subject to regulatory constraints no greater than those imposed in the above mentioned docket. The Applicant requests that its local exchange service tariff filings be regulated under this form of flexible regulation.

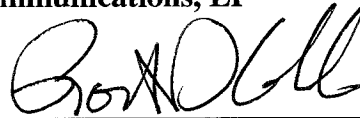
This Application demonstrates that NII has the technical, financial and managerial resources to provide facilities-based and resold local exchange service and resold-based long distance service within South Carolina. The granting of this Application will promote the public interest by increasing the level of competition in the telecommunications markets of the State. Competition of this nature will mandate that all local telecommunications providers will operate more efficiently and improve the overall service quality for consumers.

Approval of the Application of NII will serve the public interest by offering consumers throughout the State of South Carolina a meaningful quality service option. Approval of this Application will also benefit consumers by creating greater competition in the local marketplace. Competition in the telecommunications marketplace inspires innovation and development of services that meet customer needs cost effectively.

Wherefore, nii communications, LP respectfully petitions this Commission for authority to operate as a resold and facilities-based provider of local exchange service telecommunications services in the State of South Carolina in accordance with this Application for flexible regulatory treatment of its local exchange services, for alternative regulation of its long distance business service offering, and for such other relief as it deems necessary and appropriate.

**nii communications, LP**

By



Robert D. Coble  
Nexsen Pruet Adams Kleemeier  
1441 Main Street, Suite 1500  
Columbia, SC 29201  
Telephone: 803-253-8211  
Facsimile: 803-253-8277  
Bcoble@nexsenpruet.com

Columbia, South Carolina

April 4, 2005



**nii communications, LP**

**SCHEDULE OF EXHIBITS**

Exhibit A	Articles of Incorporation/ Certificate of Authority
Exhibit B	Officers, Directors and Legal Counsel
Exhibit C	Financial Statements
Exhibit D	Resumes of Key Employees
Exhibit E	Proposed Local Tariff
Exhibit F	Proposed Interexchange Services Tariff and Access Services Tariff

## **Exhibit A**

### **Articles of Incorporation/Certificate of Authority**

Corporations Section  
P.O. Box 13697  
Austin, Texas 78711-3697



Elton Bomer  
Secretary of State

## Office of the Secretary of State

**ENTITY:**

**NII COMMUNICATIONS, LTD.**

**FILE NUMBER:**

**136108-10**

**DOCUMENT FILED:**

**CERTIFICATE OF MERGER**

**FILED: AUGUST 18, 2000**

**EFFECTIVE: AUGUST 18, 2000**

This letter will acknowledge the receipt and filing of the above referenced document.  
The relevant statutory provision does not provide for a certificate of filing for this type of document and, therefore, this letter may be used as evidence of filing.

Corporations Section  
Statutory Filings Division  
512-463-5581

*Come visit us on the Internet @ <http://www.sos.state.tx.us/>*

(512) 463-5555

FAX (512) 463-5709

TTY (800) 735-2989

FILED  
In the Office of the  
Secretary of State of Texas

AUG 18 2000

Corporations Section

ARTICLES OF MERGER  
OF

network intelligence, inc.  
(a Texas corporation)

WITH AND INTO

nii communications, Ltd.  
(a Texas limited partnership)

Pursuant to the provisions of Article 5.04 of the Texas Business Corporation Act (the "TBCA") and Section 2.11 of the Texas Revised Limited Partnership Act ("TRLPA"), nii communications, Ltd., a Texas limited partnership, and network intelligence, inc., a Texas corporation, hereby adopt the following Articles of Merger for the purpose of effecting a merger in accordance with the provisions of Article 5.04 of the TBCA and Section 2.11 of the TRLPA.

1. The name of each of the constituent entities, the type of such corporation or other entity and the laws under which such corporation or other entity was organized are as follows:

<u>Name of Corporation</u>	<u>Type of Entity</u>	<u>State</u>
network intelligence, inc.	Corporation	Texas
nii communications, Ltd.	Limited Partnership	Texas

2. A Plan of Merger (the "Plan") was approved and adopted by the Board of Directors and the holders of all of the shares of common stock of network intelligence, inc. in accordance with Article 5.03 of the TBCA and adopted by the sole General Partner and the sole Limited Partner of nii communications, Ltd. in accordance with Section 2.11 of the TRLPA providing for the merger (the "Merger") of network intelligence, inc., a Texas corporation (the "Acquired Company"), with and into nii communications, Ltd., a Texas limited partnership (the "Limited Partnership"), and resulting in the Limited Partnership being the surviving entity (the "Surviving Entity").

3. An executed copy of the Plan is on file at the principal place of business of the Limited Partnership, 1717 North Loop 1604 East, Suite 250, San Antonio, Texas 78232 and a copy of the Plan will be furnished by such entity, on written request without cost, to any shareholder of the Acquired Company, and to any creditor or obligee of the Acquired Company or the Limited Partnership at the time of the Merger if such obligation is then outstanding.

4. A copy of the Plan has been provided to the sole General Partner and the sole Limited Partner of the Limited Partnership at least 20 days before the Merger is effective.

5. The Plan and the performance of its terms were duly authorized by all action on the part of the Acquired Company and the Limited Partnership required by the laws of the state of Texas under which each of the Acquired Company and the Limited Partnership was formed or organized and its constituent documents.

6. As to each undersigned domestic corporation, the approval of whose shareholders is required, the number of outstanding shares of each class or series of such corporation entitled to vote, with other shares or as a class, on the Plan are as follows:

<u>Name of Corporation</u>	<u>Number of Shares Outstanding</u>	<u>Designation of Class or Series</u>	<u>Number of Shares Entitled to Vote as a Class or Series</u>
network intelligence, inc.	2,056,037	Common	N/A

7. The Plan has been approved by the Acquired Company by unanimous written consent adopted by all its shareholders.

8. The Plan provides that the Surviving Entity shall assume responsibility for any franchise taxes or franchise tax returns required to be paid or filed, as the case may be, by the Acquired Company.

9. No amendments or changes will be effected by the Merger to the certificate of limited partnership of the surviving Limited Partnership.

10. The Merger shall be effective August 18, 2000.

*[remainder of page intentionally left blank]*

Dated: Aug. 15 2000

nii communications, ltd.

By: nii communications gp, LLC, its sole general partner

By: R. E. Burk  
Richard E. Burk, its President

network intelligence, inc.

By: R. E. Burk  
Richard E. Burk, its President

**CERTIFICATE OF LIMITED PARTNERSHIP  
OF  
nii communications, Ltd.**

**FILED**  
In the Office of the  
Secretary of State of Texas  
**JUN 26 2000**  
**Corporations Section**

**THIS CERTIFICATE OF LIMITED PARTNERSHIP is executed pursuant to the  
Texas Revised Limited Partnership Act:**

- 1. The name of the limited partnership is nii communications, Ltd.**
- 2. The address of the registered office of the limited partnership is:**

**1717 North Loop 1604 East, Suite 250  
San Antonio, Texas 78232**

- 3. The name and address of the registered agent of the limited partnership for service of process required to be maintained under Section 1.06 of the Texas Revised Limited Partnership Act is:**

**Richard E. Burk  
1717 North Loop 1604 East, Suite 250  
San Antonio, Texas 78232**

- 4. The address of the principal office in the United States of the limited partnership where records are to be kept or made available under Section 1.07 of the Texas Revised Limited Partnership Act is:**

**1717 North Loop 1604 East, Suite 250  
San Antonio, Texas 78232**

- 5. The name, the mailing address and the street address of the business or residence of the general partner of the limited partnership is as follows:**

**nii communications gp, LLC  
1717 North Loop 1604 East, Suite 250  
San Antonio, Texas 78232**

CERTIFIED TO BE A TRUE AND CORRECT COPY  
AS TAKEN FROM AND COMPARED WITH THE  
ORIGINAL ON FILE IN THIS OFFICE

STATE OF SOUTH CAROLINA  
SECRETARY OF STATE

APPLICATION FOR REGISTRATION  
OF  
FOREIGN LIMITED PARTNERSHIP

FEB 23 2005

*Mark Hammond*  
SECRETARY OF STATE OF SOUTH CAROLINA

Pursuant to Section 33-42-1620 of the 1976 South Carolina Code, as amended, the undersigned foreign limited partnership submits the following:

1. Name of Limited Partnership nii communications, Ltd.
2. Name under which business will be transacted nii communications, L.P.
3. Date of Organization 06/26/00 State of Organization Texas

4. Name and Address of Registered Agent in South Carolina:

C T Corporation System

Agent's Name

c/o C T Corporation System, 75 Beattie Place, Two Insignia Financial Plaza

Street Address

Greenville

South Carolina

29601

City

State

Zip Code

I hereby consent to the appointment of Registered Agent.  
C T Corporation System

By: *E. A. Wallace*

Agent's Signature

**E. A. Wallace**  
Assistant Secretary

5. The Secretary of State is appointed the agent of the foreign Limited Partnership if no agent has been appointed or, if appointed the agent's authority have been revoked or if the agent cannot be located.

6. Home office address or principal office in state of jurisdiction:

1717 North Loop 1604 East, Ste. 250

Street Address

San Antonio, TX 78232

City

State

Zip Code

7. Names and addresses of General Partners:

- (a) nii communications GP, LLC  
Name  
1717 North Loop 1604 East, Ste. 250, San Antonio  
Mailing Address  
Texas 78232  
City  
State Zip Code

050223-0152

NII COMMUNICATIONS, LTD

FILED: 02/23/2005

Filing Fee: \$10.00 ORIG





nii communications, Ltd.

Name of Limited Partnership

(b) \_\_\_\_\_  
Name  
\_\_\_\_\_  
Mailing Address City  
\_\_\_\_\_  
State Zip Code

(c) \_\_\_\_\_  
Name  
\_\_\_\_\_  
Mailing Address City  
\_\_\_\_\_  
State Zip Code  
(Add additional lines if necessary)

8. Address of office where a list of names and addresses of the Limited Partners and their capital contributions is kept:

1717 North Loop 1604 East, Ste. 250  
Street Address  
San Antonio, TX 78232  
City State Zip Code

9. The undersigned foreign limited partnership affirms that a list of names and addressed of the limited partners along with their capital contributions will be kept at the address listed in # 8 until the foreign limited partnership's registration in South Carolina is cancelled or withdrawn.

Date 17 February 2005

nii communications GP, LLC

Name of Partnership

Signature of General Partner

**FILING INSTRUCTIONS**

1. Two copies of this form, the original and either a duplicate original or a conformed copy.
2. An original certificate of existence not more than 30 days old from the domestic state.
3. Filing Fee (payable to the Secretary of State at the time of filing this application) - \$10.00

Return to: Secretary of State  
P.O. Box 11350  
Columbia, SC 29211

**NOTE**

THE FILING OF THIS DOCUMENT DOES NOT, IN AND OF ITSELF, PROVIDE AN EXCLUSIVE RIGHT TO USE THIS NAME ON OR IN CONNECTION WITH ANY PRODUCT OR SERVICE. USE OF A NAME AS A TRADEMARK OR SERVICE MARK WILL REQUIRE FURTHER CLEARANCE AND REGISTRATION AND BE AFFECTED BY PRIOR USE OF THE MARK. FOR MORE INFORMATION, CONTACT THE TRADEMARKS DIVISION OF THE SECRETARY OF STATE'S OFFICE AT (803) 734-2511.

# *The State of South Carolina*



*Office of Secretary of State Mark Hammond*

## **Certificate of Authorization, Limited Partnership**

**I, Mark Hammond, Secretary of State of South Carolina Hereby certify that:**

NII COMMUNICATIONS, LTD,  
a Limited Partnership organized under the laws of the state of TEXAS and doing  
business in South Carolina under the name of

NII COMMUNICATIONS, LTD  
has, on February 23rd, 2005, filed with this office duly authenticated evidence of  
its formation and a proper application of registration of foreign limited partnership  
and is authorized to transact business in this State, as provided by the South  
Carolina Uniform Limited Partnership Act, as shown by the records in this office  
in the Foreign Limited Partnership file.

Given under my Hand and the Great  
Seal of the State of South Carolina this  
23rd day of February, 2005.

  
Mark Hammond, Secretary of State

Note: This certificate does not contain any representation concerning fees or taxes owed by the Corporation to the South Carolina Tax Commission or whether the Corporation has filed the annual reports with the Tax Commission. It is important to know whether the Corporation has paid all taxes due to the State of South Carolina, and has filed the annual reports: a certificate of compliance must be obtained from the Tax Commission